

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PAUL R. ROSENBERGER,
Petitioner,
v.
ANNA WOLF, et al.,
Respondents.

Case No. CV 13-8491 GAF(JC)

ORDER SUMMARILY DISMISSING
PETITION FOR WRIT OF HABEAS
CORPUS

I. SUMMARY

On November 18, 2013, Paul R. Rosenberger (“petitioner”), who is currently housed at Patton State Hospital, and is proceeding *pro se*, filed a Petition for Writ of Habeas Corpus (the “Petition”). The Petition, construed liberally, appears to challenge ongoing criminal “DUI” proceedings in Santa Barbara County Superior Court on the ground that petitioner is not guilty. (Petition at 2, 3).

As explained below, in light of the pendency of the state criminal proceedings in issue, this Court must abstain from considering petitioner’s claim

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1 pursuant to Younger v. Harris, 401 U.S. 37 (1971)¹ and must dismiss this action
 2 without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases in
 3 the United States District Courts.²

4 **II. DISCUSSION**

5 Except under narrow circumstances, federal courts abstain from interfering
 6 with pending state criminal proceedings. See Younger v. Harris, 401 U.S. 37
 7 (1971); see also 28 U.S.C. § 2283. Younger abstention is appropriate if: (1) there
 8 are ongoing state judicial proceedings; (2) the proceedings implicate important
 9 state interests; and (3) there is an adequate opportunity in the state proceedings to
 10 resolve federal questions. Dubinka v. Judges of Superior Ct., 23 F.3d 218, 223
 11 (9th Cir. 1994) (quotations and citations omitted). In this case, all three of the
 12 Younger criteria are satisfied.

13 First, it is apparent from the Petition that petitioner is currently “awaiting
 14 trial” on “DUI charges” in Santa Barbara County Superior Court. (Petition at 2).
 15 See Columbia Basin Apartment Ass’n v. City of Pasco, 268 F.3d 791, 801 (9th Cir.
 16 2001) (under first prong of Younger test, state proceedings deemed ongoing if state
 17 court suit pending at time of federal suit’s filing); Drury v. Cox, 457 F.2d 764,
 18 764-65 (9th Cir. 1972) (only in most unusual circumstances is defendant entitled to
 19 have federal interposition by way of injunction or habeas corpus until after jury
 20 comes in, judgment has been appealed from and case concluded in state courts).

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22 Second, the state has an important interest in passing upon and correcting
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 25 ¹Federal courts may raise Younger abstention *sua sponte*. See Hoye v. City of Oakland,
 653 F.3d 835, 843 n.5 (9th Cir. 2011).

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 27 ²Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts
 28 requires a judge promptly to examine a federal habeas petition, and to dismiss it if “it plainly
 appears from the petition and any attached exhibits that the petitioner is not entitled to relief in
 the district court. . . .”

1 violations of a defendant's rights. See Roberts v. DiCarlo, 296 F. Supp. 2d 1182,
2 1185 (C.D. Cal. 2003) (citation omitted).

3 Third, petitioner has an adequate opportunity in the state proceedings,
4 including state appellate proceedings, to resolve any federal questions that may
5 arise during the proceedings. See Middlesex County Ethics Committee v. Garden
6 State Bar Ass'n, 457 U.S. 423, 432 (1982) (where vital state interests involved,
7 federal court should abstain unless state law clearly bars interposition of
8 constitutional claims) (citations and quotations omitted); United States ex rel.
9 Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 253 (9th Cir.
10 1992) (doctrine of abstention precludes party from obtaining relief in federal court
11 simply because party disagrees with result reached by state courts); Pennzoil Co.
12 v. Texaco, Inc., 481 U.S. 1, 15 (1987) (federal court should assume state
13 procedures will afford adequate opportunity for consideration of constitutional
14 claims in absence of unambiguous authority to contrary).

15 Because the Younger requirements are satisfied, this Court must abstain and
16 dismiss this action unless extraordinary circumstances exist. See Colorado River
17 Water Conservation Dist. v. United States, 424 U.S. 800, 817 n.22 (1976)
18 (Younger abstention not discretionary once conditions met); World Famous
19 Drinking Emporium, Inc. v. City of Tempe, 820 F.2d 1079, 1081 (9th Cir. 1987)
20 ("When a case falls within the proscription of Younger, a district court must
21 dismiss the federal action.") (citation omitted). Here, neither the claim asserted by
22 petitioner, nor anything else in the record suggest the existence of extraordinary
23 circumstances. See Younger, 401 U.S. at 45-46.


24 Consequently, this Court must abstain from considering petitioner's
25 challenge to his ongoing criminal proceedings and dismiss this action without
26 prejudice.

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28 **III. ORDER**

1 IT IS THEREFORE ORDERED that the Petition is dismissed without
2 prejudice and that Judgment be entered accordingly.

3 DATED: December 4, 2013

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5 HONORABLE GARY A. FEESS
6 UNITED STATES DISTRICT JUDGE

7 Presented by:³
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10 /s/

11 Honorable Jacqueline Chooljian
12 UNITED STATES MAGISTRATE JUDGE
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26 ³Pursuant to Local Rule 72-3.2, the Magistrate Judge promptly shall examine a petition
27 for writ of habeas corpus, and if it plainly appears from the face of the petition and any exhibits
28 annexed to it that the petitioner is not entitled to relief, the Magistrate Judge may prepare a
proposed order for summary dismissal and submit it and a proposed judgment to the District
Judge.